

REMARKS

Claims 1-6 and 20-35 are now pending in the application. Claims 1, 4, 23 and 28 have been amended. Claims 34 and 35 have been added. The basis for the foregoing amendments and new claims may be found throughout the written description, drawings, and claims as originally filed. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

DRAWINGS

The drawings stand objected to for certain informalities. Specifically, the Examiner has noted that line "7-7" mentioned in paragraph [0026] is missing from the drawings. Applicants note that line "7-7" has not been provided in Figure 2 but rather Figure 5 as originally filed. To correct this informality, paragraph [0026] has been amended to refer to line "7-7" in Figure 5. Applicants respectfully request withdrawal of this objection.

SPECIFICATION

The specification stands objected to for certain informalities. Applicants have amended the specification according to the Examiner's suggestions. However, the Examiner has objected to reference "72" in paragraph [0063], line 8. Applicants do not see this reference. Applicants request verification of this objection.

Under item 5 of the most recent Office Action, the Examiner objects to the subject matter set forth in claims 4 and 23 as not being found in the specification. In response to this objection, claim 4 has been amended to recite the second end rotatable about the

generally vertical axis to conform to the specification. In addition, claim 23 has been amended to recite draining the flush tank in a drainage position to conform to the specification. Therefore, reconsideration and withdrawal of this objection are respectfully requested.

REJECTION UNDER 35 U.S.C. § 112

Claims 1, 3-6, 20-23, and 25-32 stand rejected under 35 U.S.C. § 112, first paragraph, because the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. This rejection is respectfully traversed.

The Examiner has stated that the specification, “while being enabling for spout ends rotatable/rotatably coupled by components, does not reasonably provide enablement for only relative rotation”. Applicants respectfully direct the Examiner’s attention to paragraphs [0054] and [0055]. Specifically, paragraph [0054] provides “[t]he first and second components 96 and 98 are rotatably coupled at a joint 100”. See FIG. 6. In addition, [0055] provides “the second component 98 is rotated in the direction of arrow A (see Figure 5) relative to the first part 96 from an upright fill position to a downward or drainage position”. In view of at least the description recited in paragraphs [0054] and [0055] of the specification and FIGS. 5 and 6, Applicants respectfully assert that the present teachings as set forth in the claims properly enables any person skilled in the art to make and use the invention. Therefore, reconsideration and withdrawal of this objection are respectfully requested.

Claims 28 and 29 stand rejected under 35 U.S.C. § 112, first paragraph, because the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. This rejection is respectfully traversed.

The Examiner has rejected claims 28 and 29 as not providing enablement for relative rotation. In response to this rejection, Applicants have amended claim 28 to correct this informality. With respect to claim 29, Applicants note that Figure 6 clearly depicts the intersection of the respective vertical and horizontal axes 86 and 94, respectively. Therefore, reconsideration and withdrawal of this objection are respectfully requested.

REJECTION UNDER 35 U.S.C. § 103

Claims 20-29, 1-6, and 30-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 4,776,631 (Sargent) and U.S. Pat. No. 779,946 (Link). This rejection is respectfully traversed.

At the outset, Applicants note that claim 1 recites the second end being rotatable relative to the first end about a generally horizontal axis between a fill position and a drain position. Claim 1 has been amended to even further define that the second end is rotatable relative to the first end such that the source of flush water is drained from the flush tank in the drainage position. Similarly, claim 20 recites the second open end rotatable relative to the first open end about a generally horizontal axis and such rotation drains the source of flush water from the flush tank. Claim 34 has been added to recite that the second opening of the system of Claim 1 is below the flush tank in the

drainage position. Claim 35 has been added to similarly recite that the second open end is rotatable to a drainage position below the flush tank.

In the most recent Office Action, the Examiner acknowledged that the first and second ends of the Sargent spout are not relatively rotatable. The Examiner asserts that Link cures these deficiencies simply through its combination with Sargent.

Applicants note that the commonly owned patent to Sargent is specifically directed to a holding tank, not a flush water tank as is disclosed in the present invention. As best illustrated in FIGS. 6 and 7 of Sargent, the holding tank 104 is specifically designed for ease of removal. The size and capacity of holding tank 104 are such that it can hold a meaningful amount of waste so that frequent emptying of the tank can be avoided, yet not so large that the tank is overly difficult to remove, transport, and dump by an average adult even if full. See e.g. Col. 12, Lines 26-32. Moreover, handles 194 and 196 are provided for one-handed transport to a disposal site. As illustrated in FIG. 37, the handle 196 may be grasped by a person dumping the holding tank. In sum, there is no need to provide a spout having a second end being rotatable relative to a first end about a generally horizontal axis between a fill position and a drain position, as claimed in the present invention, on the holding tank of Sargent because the tank 104 of Sargent is removable and may be inverted.

Link, issued in 1905, discloses a funnel-cock for a car heater. The Link reference is improperly asserted art because it is non-analogous to the present invention. A proper analogous reference must either be in the same field of endeavor of the invention or must be reasonably pertinent to the particular problem with which the invention is involved. *In re Clay*, 23 USPQ.2d 1058, 1060 (Fed. Cir. 1992). The Link

reference pertains to a vastly different field of endeavor, namely it relates to a funnel-cock for a car-heating apparatus. Further, the issues addressed by the present invention pertain to spouts on sanitation systems. There is absolutely no suggestion, motivation, or incentive to provide a sanitary system having a toilet and a spout with a funnel-cock for a car heater. As such, the Link reference does not render claims 20-29, 1-6, and 30-33 obvious, and Applicants respectfully request withdrawal of the rejection and allowance of claims 20-29, 1-6, and 30-34.

Assuming, *arguendo*, that the teachings of Sargent and Link can be combined, the resulting structure would be a holding tank with a spout that rotates about a horizontal axis. In this regard, the Examiner fails to cite a combination of art that teaches or suggests each limitation of the claims.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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